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SENATE BILL 4

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

CARLOS R. CISNEROS

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE LIQUOR EXCISE TAX ACT TO
EXPAND THE DEFINITION OF MICROBREWERY AND CHANGE THE TAX ON
BEER MANUFACTURED OR PRODUCED BY A MICROBREWERY AND SOLD IN NEW
MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-17-2 NMSA 1978 (being Laws 1966,
Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS. -- As used in the Liquor Excise Tax
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters or any similar alcoholic beverage,
including blended or fermented beverages, dilutions or
mixtures of one or more of the foregoing containing more than

Underscored material = new
[bracketed material] = delete

1 one-half of one percent alcohol, but excluding medicinal
2 bitters:

3 (1) "spirituous liquors" means alcoholic
4 beverages, except fermented beverages such as wine, beer,
5 cider and ale;

6 (2) "beer" means any alcoholic beverage
7 obtained by the fermentation of any infusion or decoction of
8 barley, malt and hops or other cereals in water and includes
9 porter, beer, ale and stout;

10 (3) "cider" means an alcoholic beverage made
11 from the normal alcoholic fermentation of the juice of sound,
12 ripe apples that contains not less than one-half of one
13 percent of alcohol by volume and not more than seven percent
14 of alcohol by volume;

15 (4) "fortified wine" means wine containing
16 more than fourteen percent alcohol by volume when bottled or
17 packaged by the manufacturer, but does not include:

18 (a) wine that is sealed or capped by
19 cork closure and aged two years or more;

20 (b) wine that contains more than
21 fourteen percent alcohol by volume solely as a result of the
22 natural fermentation process and has not been produced with
23 the addition of wine spirits, brandy or alcohol; or

24 (c) vermouth and sherry; and

25 (5) "wine" includes the words "fruit juices"

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1 and means alcoholic beverages, other than cider, obtained by
2 the fermentation of the natural sugar contained in fruit or
3 other agricultural products, with or without the addition of
4 sugar or other products, that do not contain less than one-
5 half of one percent nor more than twenty-one percent alcohol
6 by volume;

7 B. "department" means the taxation and revenue
8 department, the secretary of taxation and revenue or any
9 employee of the department exercising authority lawfully
10 delegated to that employee by the secretary;

11 C. "microbrewer" means any person who produces
12 fewer than [~~five~~] sixty thousand barrels of beer in a year;

13 D. "person" means any individual, estate, trust,
14 receiver, cooperative association, club, corporation, company,
15 firm, partnership, joint venture, syndicate or other
16 association; "person" also means, to the extent permitted by
17 law, any federal, state or other governmental unit or
18 subdivision or agency, department or instrumentality thereof;

19 E. "small winer or winegrower" means any person
20 who produces fewer than three hundred seventy-five thousand
21 liters of wine in a year; and

22 F. "wholesaler" means any person holding a license
23 issued under Section 60-6A-1 NMSA 1978 or any person selling
24 alcoholic beverages that were not purchased from a person
25 holding a license issued under Section 60-6A-1 NMSA 1978. "

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1 Section 2. Section 7-17-5 NMSA 1978 (being Laws 1993,
2 Chapter 65, Section 8, as amended) is amended to read:

3 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX. --

4 There is imposed on any wholesaler who sells alcoholic
5 beverages on which the tax imposed by this section has not
6 been paid an excise tax, to be referred to as the "liquor
7 excise tax", at the following rates on alcoholic beverages
8 sold:

9 A. on spirituous liquors, one dollar sixty cents
10 (\$1.60) per liter;

11 B. on beer, except as provided in Subsection E of
12 this section, forty-one cents (\$.41) per gallon;

13 C. on wine, except as provided in Subsections D
14 and F of this section, forty-five cents (\$.45) per liter;

15 D. on fortified wine, one dollar fifty cents
16 (\$1.50) per liter;

17 E. on beer manufactured or produced by a
18 microbrewer and sold in this state, provided that proof is
19 furnished to the department that the beer was manufactured or
20 produced by a microbrewer [~~twenty-five cents (\$.25) per~~
21 ~~gallon~~] eight cents (\$.08) per gallon on the first thirty
22 thousand barrels and sixteen cents (\$.16) per gallon on all
23 barrels sold over thirty thousand but less than sixty
24 thousand;

25 F. on wine manufactured or produced by a small

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1 winer or winegrower and sold in this state, provided that
2 proof is furnished to the department that the wine was
3 manufactured or produced by a small winer or winegrower, ten
4 cents (\$.10) per liter on the first eighty thousand liters
5 sold and twenty cents (\$.20) per liter on all liters sold over
6 eighty thousand liters but less than three hundred seventy-
7 five thousand liters; and

8 G. on cider, forty-one cents (\$.41) per gallon. "

9 Section 3. EFFECTIVE DATE. --The effective date of the
10 provisions of this act is July 1, 1998.